

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Simitian Analyst: Darrine Distefano Bill Number: AB 2922
Related Bills: See Prior Analysis Telephone: 845-6458 Amended Date: 05-06-2002
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Agencies Provide to the Office of Privacy Protection a Description of Their System of Records

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended April 18, 2002.

☒ FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 18, 2002

☒ STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY

This bill would require each state agency to provide to the Office of Privacy Protection (Office) a description of its system of records. The Office would be required to use this information to create the State Personal Information Inventory.

SUMMARY OF AMENDMENT

The May 6th amendments made the following changes to the bill:

- Requires the Office to develop the process and format for the reporting of personal information by state agencies, instead of adopting regulations on the collection, use, and disclosure of personal information.
- Requires a state agency to be in compliance with the Office's process and format, rather than their regulations and reporting requirements.
- Requires a state agency to provide a description of its system of records by January 1, 2004, instead of by July 1, 2003.
- Requires each state agency to update the information provided to the Office no later than January 1 of each year.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director

Date

Brian Putler

05/24/02

The May 6th amendments resolve one of the department's implementation considerations raised in the analysis dated April 18th. The remaining implementation considerations, policy concerns, and departmental fiscal impacts are repeated below for convenience. The remainder of the department's analysis of the bill as amended on April 18, 2002, still applies.

POSITION

Pending.

IMPLEMENTATION CONSIDERATIONS

This bill uses undefined terms, such as "central catalogue" and "categories." It is unclear if the "central catalogue" is a web site or paper document maintained by the Office where the public can review the information collected by state agencies. This bill uses the term "category" very broadly, e.g. "categories of individuals," "categories of users," and "categories of sources of records." A similar reporting requirement to the Office of Information Practices expired 10 years ago. The Franchise Tax Board (FTB), under that requirement, defined categories of individuals as taxpayers and categories of users as employees of FTB. If the author's intent is to be more specific within these categories, further clarification is required. Also, the author may wish to utilize the language from the previous law for ease of implementation.

The intent for the bill's requirement to have the state agency describe whether the categories of information in the system of records are personal or public information is unclear. Under the Revenue and Taxation Code, personal taxpayer information received by FTB is confidential and cannot be released as public information.

It is unclear if the term "location" means the central location where the system is located or the various locations where the system can be accessed. FTB has several district and satellite offices throughout California and the United States. All of the systems are located at the central office in Sacramento; however, if the author's intent is to notify the public where the systems are accessed, further clarification is required.

The bill defines the term "system of records," but it is still unclear if this term includes systems that contain employee information. Since the intent of this bill is to allow the public to know what information a state agency maintains on them, the author may wish to exclude systems that contain employee information under the definition of system of records. Also, it is unclear if this term includes computer systems or paper systems or both.

The May 6th amendments changed the date from July 1, 2003, to January 1, 2004, that an agency must provide information to the Office. However, the department would still need to redirect personnel from other projects in order to meet the January 1 deadline in order to provide the information this bill would require.

This bill requires the Office to post in the central catalogue a list of each agency's system of records. It is unclear whether the central catalogue will be on the Office's web site. If on the web site, additional information requests may be generated by individuals browsing the Internet. The department may require additional personnel resources to respond to these requests.

FISCAL IMPACT

Until the Office of Privacy Protection develops the process and format for the reporting of personal information, it is difficult to calculate the administrative costs for this bill. Preliminary implementation estimates anticipate costs of approximately **\$48,000 and .6 Personnel Years (PYs)** of redirected resources to comply with the request for a description of the department's system of records. It is anticipated that ongoing maintenance of the list could be handled during the department's annual system updates.

In addition, this bill would result in requests for information that could have significant customer service impacts on the department. It is estimated that increases in the number of IPA/PRA requests could range in costs of **\$84,000 to \$380,000, and 1 to 5 PYs.**

ARGUMENTS/POLICY CONCERNS

By listing the system of records in the State Personal Information Inventory, a potential security risk for state agencies could be created. Although the bill does not require agencies to specify the computer coded address of a system of records, the name of the system may provide enough detail for a person to illegally access the computer system.

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